

## BEFORE THE BOARD OF ACUPUNCTURE

## STATE OF IDAHO

In the Matter of the License of:	)	
	)	Case No. ACU-2009-4
CHRISTINA VAN DER MEULEN,	)	
License No. ACU-140,	)	<b>STIPULATION AND</b>
	)	<b>CONSENT ORDER</b>
<u>Respondent.</u>	)	

WHEREAS, information has been received by the Idaho State Board of Acupuncture (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Christina Van Der Meulen ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Stipulated Facts and Law**

A.1. The Board regulates the practice of acupuncture in the State of Idaho in accordance with title 54, chapter 47, Idaho Code.

A.2. The Board has issued License No. ACU-140 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 47, Idaho Code and the Board's rules at IDAPA 24.17.01, *et seq.*

A.3. Pursuant to Idaho Code § 54-4705(1)(h), the Board has adopted a rule requiring continuing education as a condition of continued licensure. Board Rule 302.01.b (IDAPA 24.17.01.302.01.b) requires, in pertinent part, that each renewal application be accompanied by "certification of having attended and completed a minimum of fifteen (15) hours of acupuncture study or oriental medical theory and techniques within the previous twelve (12) months...." Board Rule 302.01.c further states: "Compliance with the continuing education (CE) requirements for licensees shall be reported annually. A CE course taken in any renewal year, but not claimed for CE

credit in that year, may be utilized for credit in the following year.”

A.4. On or about June 20, 2008, Respondent submitted her License Renewal Application for the 2008-09 renewal year. As part of her License Renewal Application, Respondent answered yes to Question 1:

Prior to your submission of this renewal application, have you completed a minimum of 15 hours of continuing education of acupuncture study or oriental medical therapy and techniques within the previous 12 months, or within the previous 24 months if you are including carry over hours taken from the previous renewal year but not claimed for CE credit in that year?

Respondent also signed the following affidavit:

I hereby certify under penalty of perjury that my responses to each of the above questions and any information that may be attached are true and correct. I further certify that I have read and will comply with the laws and rules governing my practice, conduct, and actions. I swear under perjury that I am the person named above and lawfully entitled to conduct this renewal transaction.

A.5. On or about July 1, 2008, the Bureau of Occupational Licenses (“Bureau”) notified Respondent that she had been selected for a continuing education audit. The Bureau asked Respondent to document by August 1, 2008 that she had complied with the Board’s continuing education requirement for the June 20, 2007 to June 20, 2008 audit period.

A.6. On or about July 15, 2008, Respondent responded with a letter and a Verification & Certificate of Compliance form in which Respondent revealed that she actually had not complied with the Board’s continuing education requirement: she had failed to obtain fifteen hours of continuing education during the previous year, had had no “carry over hours” obtained within the prior two years. Respondent did, however, document that she had completed 153 hours of continuing education in 2004 and 2005. She asked the Board to take this fact into consideration when reviewing her case.

A.7. The allegations of Paragraphs A.4. through A.7., if proven, would constitute grounds upon which the Board may impose discipline against Respondent’s license for

having violated the laws and rules governing the practice of acupuncture, specifically Idaho Code § 54-4711(2) (grounds for discipline exist where a licensee has “[o]btained a license. . . through fraud, misrepresentation or concealment of material facts”) and (6) (grounds for discipline exist where a licensee has “[e]ngaged in conduct that violates this chapter or the rules of the Board”), and Board Rule 302.01.b. (requiring licensee submitting a renewal application to certify that she has “attended a completed a minimum of fifteen (15) hours of acupuncture study or oriental medical theory and techniques within the previous twelve (12) months...”).

### **B. Waiver of Procedural Rights**

I, Christina Van Der Meulen, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.4. through A.7. I further understand that these allegations constitute cause for disciplinary action upon my license to practice acupuncture in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration of the Board’s orders; the right to judicial review of the Board’s orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of acupuncture in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

### **C. Stipulated Discipline**

C.1. Respondent shall pay to the Board an administrative fine in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) within thirty (30) days of the entry of the Board’s Order.

C.2. At the time Respondent renews her license in 2009, Respondent shall submit with her License Renewal Application documentation verifying completion of a minimum of thirty (30) hours of Board-approved continuing education (*i.e.*, a minimum of 15 hours for the 2007-08 renewal year and a minimum of 15 hours for the 2008-09 renewal year).

C.3. At the time Respondent renews her license in 2010 and 2011, Respondent shall submit with her License Renewal Application documentation verifying completion of the required continuing education during each previous 12-month period.

C.4. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.5. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

#### **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs

this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

#### **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.


c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.


DATED this 19<sup>th</sup> day of May, 2009.

  
Christina Van Der Meulen  
Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 22<sup>nd</sup> day of May, 2009.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
Karl T. Klein  
Deputy Attorney General

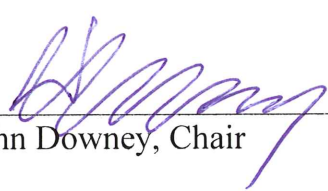
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## ORDER

Pursuant to Idaho Code § 54-4711, the foregoing is adopted as the decision of the Board of Acupuncture in this matter and shall be effective on the 29 day of May, 2009. **IT IS SO ORDERED.**

IDAHO STATE BOARD  
OF ACUPUNCTURE

By

  
John Downey, Chair

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29<sup>th</sup> day of May, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Christina Van Der Meulen  
P.O. Box 4588  
Hailey, ID 83333

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Karl T. Klein  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail

  
Tana Cory, Chief

Bureau of Occupational Licenses